

1 Ryan W. Mitchem (TN #022196)
Admitted Pro Hac Vice
2 Michael K. Alston (TN #013697)
Admitted Pro Hac Vice
3 K. Chris Collins (TN #029109)
Admitted Pro Hac Vice
4 HUSCH BLACKWELL LLP
5 736 Georgia Avenue, Suite 300
6 Chattanooga, Tennessee 37402
7 Telephone: (423) 755-2663

8 Patricia Lee (NV #8287)
9 Joseph R. Ganley (NV #5643)
HUTCHISON & STEFFEN
10 Peccole Professional Park
11 10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
12 Telephone: (702) 385-2500
Facsimile: (702) 385-2086

13 *Attorneys for Defendant LeadPile LLC*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 FLEMMING KRISTENSEN, individually,)
17 and on behalf of a class of similarly)
18 situated individuals,)
19)
Plaintiff,)
20 v.)
21 CREDIT PAYMENT SERVICES, INC.,)
a Nevada corporation, f/k/a)
22 MYCASHNOW.COM INC., ENOVA)
INTERNATIONAL, INC., an Illinois)
23 corporation, PIONEER FINANCIAL)
SERVICES, INC., a Missouri corporation,)
24 LEADPILE LLC, a Delaware limited)
liability company, and CLICKMEDIA, LLC)
25 d/b/a NET1PROMOTIONS LLC, a)
26 Georgia limited liability company,)
27)
Defendants.)
28)

Case No. 2:12-CV-00528-APG (PAL)

JURY DEMANDED

**DECLARATION OF K. CHRIS
COLLINS IN SUPPORT OF
JOINT RESPONSE TO
PLAINTIFF'S MOTION FOR
SANCTIONS UNDER FED. R. CIV.
P. 11 (DKT. 261)**

Judge: Hon. Andrew P. Gordon

Magistrate: Hon. Peggy A. Leen

1 I, K. CHRIS COLLINS, hereby aver pursuant to 28 U.S.C. § 1746, that I have
2 personal knowledge of all matters set forth herein unless otherwise indicated, and would
3 testify thereto if called as a witness in this matter.

4
5 1. I am an adult over the age of 18 years of age and am a resident of the State of
6 Tennessee. I am an attorney representing Defendant LeadPile, LLC ("LeadPile") in the
7 matter and am admitted *Pro Hac Vice* before this Court. I am fully competent to make this
8 Declaration, and make it in support of the Respondents Joint Response to Plaintiff's Motion
9 for Sanctions Under Fed. R. Civ. P. 11 Against LeadPile LLC, Credit Payment Services, Inc.,
10 K. Christopher Collins, Steven M. Aaron, Husch Blackwell LLP, and Dentons US LLP.

11
12 2. Attached to this Declaration as Exhibit A is a true and accurate copy of an
13 email from John C. Ochoa to K. Chris Collins and Steven M. Aaron, which was delivered at
14 approximately 6:26 PM EST on Friday, November 14, 2014.

15
16 3. Attached to this Declaration as Exhibit B is a true and accurate copy of a letter
17 from K. Chris Collins to John C. Ochoa, dated Friday, November 14, 2014. A copy of this
18 letter was delivered to Mr. Ochoa by email correspondence on Friday, November 14, 2014 at
19 approximately 4:52 PM EST.

20
21 4. Attached to this Declaration as Exhibit C is a true and accurate copy of an
22 email from K. Chris Collins to John C. Ochoa, which was delivered at approximately 8:20
23 PM EST on Friday, November 14, 2014.

24 I declare under penalty of perjury under the laws of the United States of America that
25 the foregoing is true and correct, and that this declaration was signed on December 1, 2014 in
26 Chattanooga, Tennessee.

Respectfully submitted,

DATED: December 1, 2014

HUSCH BLACKWELL LLP

By: /s/ K. Chris Collins

Ryan W. Mitchem (TN #022196)

Michael K. Alston (TN #013697)

K. Chris Collins (TN #029109)

736 Georgia Avenue, Suite 300

Chattanooga, Tennessee 37402

Patricia Lee (NV #8287)

Joseph R. Ganley (NV #5643)

Peccole Professional Park

10080 West Alta Drive, Suite 200

Las Vegas, Nevada 89145

Attorneys for Defendant LeadPile LLC

CERTIFICATE OF SERVICE

Pursuant to F.R.C.P. 5(b), I certify that on this 1st day of December, 2014, I caused the above and foregoing document entitled **DECLARATION OF K. CHRIS COLLINS IN SUPPORT OF JOINT RESPONSE TO PLAINTIFF'S MOTION FOR SANCTIONS UNDER FED. R. CIV. P. 11 AGAINST LEADPILE LLC, CREDIT PAYMENT SERVICES, INC., K. CHRISTOPHER COLLINS, STEVEN M. AARON, HUSCH BLACKWELL LLP, AND DENTONS US LLP** to be served as follows:

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, to be served **via electronic service** to all attorneys of record according to the Court's CM/ECF system.

s/K. Chris Collins

EXHIBIT A

Collins, Chris

From: John Ochoa <jochoa@edelson.com>
Sent: Friday, November 14, 2014 6:26 PM
To: Collins, Chris; Aaron, Steven M.
Cc: ascharg@edelson.com; Mitchem, Ryan; Alston, Michael; Rafey Balabanian; Ryan Andrews
Subject: Re: Kristensen v. CPS, Inc., et al - Response to Proposed Rule 11 Motion

Chris and Steve,

Please provide the exhibits you have moved for leave to file under seal today immediately (as the last time you filed documents under seal in connection with your Motion for Sanctions it took you one week to provide Plaintiff with unredacted copies).

We take your letter to mean that you are standing by the remaining statements you made in your Motion for Sanctions and that Plaintiff raised in his Rule 11 Motion, and are waiving the 21-day safe harbor with respect to those statements. Please let me know immediately if this is not the case, as we will be filing our Rule 11 Motion today.

Unfortunately, the recent Amendment and Supplement you filed today continues to misrepresent the record and will result in further motion practice.

Sincerely,

John

John Ochoa | Edelson PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
312.572.7209 (direct) | 312.589.6370 (firm) | 312.589.6378 (fax)
jochoa@edelson.com | www.edelson.com

♻ Please consider the environment before printing this e-mail

CONFIDENTIALITY AND LIABILITY FOR MISUSE.

The information contained in this communication is the property of Edelson PC. It is confidential, may be attorney work product, attorney-client privileged or otherwise exempt from disclosure under applicable law, and is intended only for the use of the addressee(s). Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited. If you have received this communication in error, please notify Edelson PC immediately by return e-mail and destroy this communication and all copies thereof, including all attachments.

Pursuant to requirements related to practice before the U.S. Internal Revenue Service, any tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

On Fri, Nov 14, 2014 at 4:52 PM, Collins, Chris <Chris.Collins@huschblackwell.com> wrote:

John,

Please see the attached letter in response to your proposed Rule 11 Motion. Have a good weekend.

K. Chris Collins
Attorney

HUSCH BLACKWELL LLP
736 Georgia Avenue, Suite 300
Chattanooga, TN 37402-2059
Direct: [423.755.2649](tel:423.755.2649)
Fax: [423.266.5499](tel:423.266.5499)
Chris.Collins@huschblackwell.com
huschblackwell.com
[View Bio](#) | [View VCard](#)

EXHIBIT B

HUSCH BLACKWELL

K. Chris Collins
Attorney

736 Georgia Avenue, Suite 300
Chattanooga, TN 37402
Direct: 423.755.2649
Fax: 423.266.5499
chris.collins@huschblackwell.com

November 14, 2014

VIA FEDERAL EXPRESS
and E-MAIL (jochoa@edelson.com)

John C. Ochoa, Esq.
Edelson PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654

Dear John:

We are in receipt of your e-mail and its attachments sent to us on November 5, 2014, at 9:52 pm (Eastern). We have reviewed the attachments and disagree with almost everything you have proposed in your Rule 11 Motion. You must keep in mind that your client destroyed relevant evidence on his laptop hard drive within two (2) weeks of engaging your law firm as his counsel. This cannot be in dispute. It is his testimony and your law firm has never contradicted his testimony, rather choosing to skirt the issue every time it is brought up and hiding behind baseless objections. This issue is the main thrust of our client's Motion for Sanctions.

Nevertheless, after reviewing your e-mail and its attachments, we have determined that certain amendments are necessary to our client's Motion for Sanctions. As such, we will file those amendments today. These amendments only address the issue of which iPhone your client sent to your law firm and when he wiped that iPhone's contents – other than the text messages he claims he did not consent to receive.

Husch Blackwell LLP

HUSCH BLACKWELL

John C. Ochoa, Esq.
November 14, 2014
Page 2

These will be our only amendments to our client's Motion for Sanctions. Please feel free to contact us if you have any questions.

Very truly yours,

HUSCH BLACKWELL LLP

A handwritten signature in black ink, appearing to read "K. Chris Collins".

K. Chris Collins
Attorney

KCC:msf
Enclosure

EXHIBIT C

Collins, Chris

From: Collins, Chris
Sent: Friday, November 14, 2014 8:20 PM
To: John Ochoa
Cc: Aaron, Steven M.; ascharg@edelson.com; Mitchem, Ryan; Alston, Michael; Rafey Balabanian; Ryan Andrews
Subject: Re: Kristensen v. CPS, Inc., et al - Response to Proposed Rule 11 Motion

John,

Thanks for your e-mail correspondence.

First, we will provide you with courtesy copies of the requested exhibits by e-mail on Monday morning, although we are confident that you already have copies of the deposition pages which make up these exhibits. As required by the rules, paper copies were sent to you via Federal Express this afternoon. We expect that you will receive these copies on Monday, as well.

Second, our amended motion and errata filing speak for themselves and need no further explanation. To your query, however, we are in no way waiving any aspects of, or rights under, the Rule 11 procedures.

Best,

Chris

Sent from my iPhone

On Nov 14, 2014, at 5:26 PM, John Ochoa <jochoa@edelson.com> wrote:

Chris and Steve,

Please provide the exhibits you have moved for leave to file under seal today immediately (as the last time you filed documents under seal in connection with your Motion for Sanctions it took you one week to provide Plaintiff with unredacted copies).

We take your letter to mean that you are standing by the remaining statements you made in your Motion for Sanctions and that Plaintiff raised in his Rule 11 Motion, and are waiving the 21-day safe harbor with respect to those statements. Please let me know immediately if this is not the case, as we will be filing our Rule 11 Motion today.

Unfortunately, the recent Amendment and Supplement you filed today continues to misrepresent the record and will result in further motion practice.

Sincerely,

John

John Ochoa | Edelson PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654

312.572.7209 (direct) | 312.589.6370 (firm) | 312.589.6378 (fax)
jochoa@edelson.com | www.edelson.com

♻ Please consider the environment before printing this e-mail

CONFIDENTIALITY AND LIABILITY FOR MISUSE.

The information contained in this communication is the property of Edelson PC. It is confidential, may be attorney work product, attorney-client privileged or otherwise exempt from disclosure under applicable law, and is intended only for the use of the addressee(s). Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited. If you have received this communication in error, please notify Edelson PC immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Pursuant to requirements related to practice before the U.S. Internal Revenue Service, any tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

On Fri, Nov 14, 2014 at 4:52 PM, Collins, Chris <Chris.Collins@huschblackwell.com> wrote:

John,

Please see the attached letter in response to your proposed Rule 11 Motion. Have a good weekend.

K. Chris Collins
Attorney

HUSCH BLACKWELL LLP
736 Georgia Avenue, Suite 300
Chattanooga, TN 37402-2059
Direct: [423.755.2649](tel:423.755.2649)
Fax: [423.266.5499](tel:423.266.5499)
Chris.Collins@huschblackwell.com
huschblackwell.com
[View Bio](#) | [View VCard](#)